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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,699	01/11/2002	Robert P. Carlstedt	60130-1019	7973

26096 7590 04/29/2004

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EXAMINER

DUNN, DAVID R

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/044,699	CARLSTEDT ET AL.	
	Examiner	Art Unit	
	David Dunn	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 9-24 and 26-60 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5, 9-15, 17-22, 29-32, 36-41, 48-52 and 55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 16, 23, 24, 33-35, 42-47, 53, 54 and 56-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/06/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is responsive to the amendment filed February 6, 2004 in which claims 6-8 and 25 were canceled. Claims 4, 5, 7-15, 17-22, 29-32, 36-41, and 48-52 remain withdrawn from further consideration.

Election/Restrictions

1. Newly submitted claim 55 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 55 claims a floating piston which is shown in non-election Figure 10.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 55 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 35 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which

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it is most nearly connected, to make and/or use the invention. The specification does not describe how the gas spring controls “the flow of gas into said cylinder.”

Note: This rejection relates the elected species of Figure 7. See arguments below for further discussion.

Claim Objections

4. Claim 23 is objected to because of the following informalities: Claim 23 recites “a frame”, “said frame element”, and “said frame”; it appears that these recitations refer to the same element despite the different claimed names. Also the claim recites “a laterally extending generally elongated member” and then “said generally elongated frame portion” which appear to be the same. In both instances, the examiner recommends using the same named designation for each element in order to be consistent. Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 16, 23, 24, 26, 33-35, 53, 54, 59, and 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Muller et al. (3,008,729).

Muller et al. discloses a vehicle frame component and suspension assembly comprising: a vehicle structural frame component (7; see also column 3, lines 6-10) that is part of an engine

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cradle (see Figure 1; engine is cradled in front portion of vehicle frame) having an internal bore that extends between two lateral sides (3) of the vehicle; and a suspension component comprising at least one piston (11; see Figure 3) movable within said bore, and said suspension component being part of a suspension for a vehicle wheel (5). The suspension component extends outwardly (8) of the bore to connect to the vehicle wheel (through 6). Cylinder 13 divides the bore into two sides, with a piston movable each side (see Figure 3); the chambers are fluid (air) chambers. A gas spring (4) is associated with each cylinder.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 42-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balz in view of Chausson (2,530,226).

Balz shows a frame component (11) having an internal bore and a suspension component (54) received within the bore (see Figures 2 and 3). The suspension component extends outwardly of the bore to be connected to the wheel (on 48). The frame component extends between two lateral sides of a vehicle and receives suspension components associated with each of the two lateral sides (inherently). Support 13 is a divider within the frame element which divides the bore into two chambers.

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Balz inherently has an engine however Balz does not actually show an engine cradled in the vehicle frame.

Chausson shows an old and well known vehicle frame comprising an engine cradle (2, 3; see column 2, lines 4-6), and a firewall (rear portion of engine compartment; see Figure 1) and a radiator support (front portion of engine compartment); the engine cradle supports the suspension (5, 6).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Balz with the teachings of Chausson to use the frame transverse beam (11) to support an engine as part of an engine cradle in order to provide a simplified frame that could support the engine.

9. Claims 27, 28, and 56-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller et al. in view of Chausson.

Muller et al. is discussed above and does not show the fire wall, radiator or wheel house.

Chausson is discussed above.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a firewall to protect the occupants of the vehicle and to include a modular unit in order to more easily provide the vehicle body.

Response to Arguments

10. Applicant's arguments filed February 6, 2004 have been fully considered but they are not persuasive.

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On page 14, Applicant argues the section 112 rejection of Claim 35. It is noted that Applicant points a portion of the specification which discusses a non-elected species. If this is in fact what is to be claimed in claim 35, then claim 35 should be withdrawn from consideration. However, since Applicant originally noted that claim 35 reads on the elected embodiment of Figure 7, then this rejection is maintained as these features are not discussed regarding Figure 7 and how they would be incorporated into this embodiment.

On pages 15-18, Applicant argues the combination of Balz and Chausson. Applicant argues that the references teach away from each other and Applicant argues various details of the suspension and wheel mountings of Chausson. In response, it is noted that Chausson is used in the rejection to show frame having an engine chassis. Balz inherently has an engine, and therefore the frame has an engine mounting, however these elements are silent in the disclosure. Chausson was cited in the rejection to show a vehicle frame having an engine mounting with various other components also claimed by applicant such as the firewall. Chausson is not used for any teaching of a suspension or wheel mounting. Chausson is cited to show that it would have been obvious to one of ordinary skill in the art at the time the invention was made to include an engine cradle with the frame of Balz.

On page 16, regarding claim 42, applicant argues that Chausson does disclose an engine cradle member extending between the lateral sides of the body. Firstly, the engine cradle members 2 and 3 are between the lateral sides of the vehicle (with a support member 6 extending laterally). Secondly, Balz shows a frame member (11) extending between the lateral sides of the body. The teaching of Chausson is used to show that it would have been obvious to one of

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ordinary skill in the art at the time the invention was made to mount an engine (hence an “engine cradle”) on the frame of Balz.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

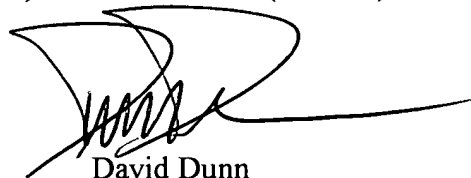
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 703-305-0049. The examiner can normally be reached on Mon-Thur, alt. Fridays, 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in dark ink, appearing to read 'Dunn', with a long horizontal flourish extending to the right.

David Dunn
Primary Examiner
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